

This Page Is Inserted by IFW Operations
and is not a part of the Official Record

BEST AVAILABLE IMAGES

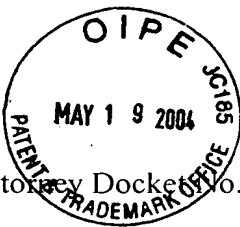
Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

**As rescanning documents *will not* correct images,
please do not report the images to the
Image Problem Mailbox.**



IFW DAC

Attorney Docket No. 9099-18

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Robert D. Black et al.

Serial No.: 10/779,907

Filed: February 17, 2004

For: IN VIVO FLUORESCENCE SENSORS, SYSTEMS, AND RELATED METHODS
OPERATING IN CONJUNCTION WITH FLUORESCENT ANALYTES

Date: May 17, 2004

Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCORD THE PROPER FILING DATE

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of February 17, 2004 rather than February 18, 2004 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of February 17, 2004 being the correct filing date for the application, which was properly filed under 37 C.F.R. § 1.10:

1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 2;
2. A true and accurate copy of the Express Mail Receipt along with a copy of the USPS-Track & Confirm from the web page (www.usps.com), showing "acceptance" or deposit date with the USPS at 5:44 p.m. on February 17, 2004; and
3. A true and accurate copy of our return post card and of the official filing receipt for this application, sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of February 18, 2004 instead of the Express Mail date of February 17, 2004.

This petition is being filed promptly after Applicant became aware of the improperly accorded filing date. Accordingly, Applicant respectfully requests the granting of February 17, 2004 as the filing date pursuant to 37 CFR § 1.10.

In re: Robert D. Black et al.
Serial No.: 10/779,907
Filed: February 17, 2004
Page 2

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

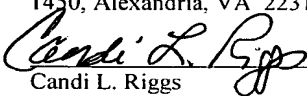


Elizabeth A. Stanek
Attorney For Applicant
Registration No. 48,568

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 17, 2004.


Candi L. Riggs



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
ATTY DOCKET NO.: 9099-18
DATE: February 17, 2004

**UTILITY PATENT APPLICATION TRANSMITTAL LETTER
AND FEE TRANSMITTAL FORM (37 CFR § 1.53(b))**

Mail Stop PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing under 37 CFR § 1.53(b) is:

- ☒ a patent application
☐ a Continuation ☐ a Divisional ☐ a Continuation-in-Part (CIP) Application of prior application no.: _____; filed _____, the disclosure of which is incorporated herein by reference in its entirety.
☒ and claims the benefit of Provisional Application No. 60/448,349; filed February 19, 2003 and Provisional Application No. 60/471,706; filed May 19, 2003.

Inventor(s) or Application Identifier:

Robert D. Black
Natasha Bolick

Entitled: ***IN VIVO* FLUORESCENCE SENSORS, SYSTEMS, AND RELATED METHODS
OPERATING IN CONJUNCTION WITH FLUORESCENT ANALYTES**

Myers Bigel Sibley & Sajovec, P.A.
P. O. Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401
Customer No. 20792

Enclosed are:

1. ☒ Application Transmittal Letter and Fee (*A duplicate is enclosed for fee processing*)
2. ☒ 71 pages of Specification (including 104 claims)
3. ☒ 17 sheets of Informal Drawings
4. ☒ Oath or Declaration
 - a. ☒ newly executed (*original or copy*)
 - b. ☐ copy from prior application (37 CFR 1.63(d) (*for continuation/divisional*) [Note Box 6 Below])
 - c. ☐ DELETION OF INVENTOR(S) (*Signed statement deleting inventor(s) named in the prior application*)
5. ☐ Application Data Sheet. See 37 CFR 1.76
6. ☐ Incorporation By Reference (*useable if box 4b is checked*)

The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

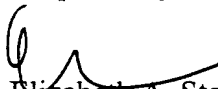
7. ☐ Microfiche Computer Program (*Appendix*)
8. ☒ Assignment papers (*cover sheet(s) and document(s)*)
9. ☐ Applicant claims small entity status. See 37 CFR § 1.27.
10. ☐ Information Disclosure Statement, PTO-1449, and _____ references cited
11. ☐ Preliminary Amendment (*Please enter all claim amendments prior to calculating the filing fee.*)
12. ☐ English Translation Document
13. ☐ Certified Copy of
14. ☐ Sequence Listing/ Sequence Listing Diskette
 - a. ☐ computer readable copy
 - b. ☐ paper copy
 - c. ☐ statement in support
15. ☐ An Associate Power of Attorney
16. ☒ Return Receipt Postcard (MPEP 503) (*Should be specifically itemized*)
17. ☐ Deletion of Inventors(s) (Signed statement attached deleting inventor(s) name in the prior application. See 37 CFR 1.63(d)(2) and 1.33(b).
18. ☐ Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form.
19. ☐ Other:

The fee has been calculated as shown below:

	Column 1 No. Filed	Column 2 No. Extra	Small Entity Rate Fee	Large Entity Rate Fee
BASIC FEE			\$385.00	\$770.00
TOTAL CLAIMS	104- 20 =	84	x 09 = \$	x 18 = \$1512.00
INDEP CLAIMS	5 - 3 =	2	x 43 = \$	x 86 = \$172.00
<input type="checkbox"/> MULTIPLE Dependent Claims Presented			+ 145 = \$	+ 290 = \$
If the difference in Col. 1 is less than zero, Enter "0" in Col. 2			Total \$	Total \$2454.00

- ☐ A check in the amount of \$ to cover the filing fee is enclosed.
- ☒ A check in the amount of \$2494.00 is enclosed to cover the filing fee, PLUS the Assignment Recordation fee (\$40.00).
- ☐ Please charge my Deposit Account No. 50-0220 in the amount of \$
- ☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:
- a. ☒ Additional filing fees under 37 CFR 1.16 for presentation of extra claims.
 - b. ☒ Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted,


Elizabeth A. Stanek
Registration No. 48,568

CERTIFICATE OF EXPRESS MAILING

Express Mail Label No. **EV381447602US**

Date of Deposit: **February 17, 2004**

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated above and is addressed to: Mail Stop PATENT APPLICATION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450


Ban Younag



EV 381447602 US



UNITED STATES POSTAL SERVICE®

Customer Copy
Label 11-F June 2001

Post Office To Address

ORIGIN (POSTAL USE ONLY)			
PO ZIP Code 27622	Day of Delivery <input checked="" type="checkbox"/> Next <input type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>	
Date In Mo. Day Year Time In <input type="checkbox"/> AM <input type="checkbox"/> PM	<input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$ 17.85	
Weight lbs. ozs.	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee	
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Int'l Alpha Country Code	COD Fee	Insurance Fee
Acceptance Clerk Initials [Signature]		Total Postage & Fees \$ 17.85	

CUSTOMER USE ONLY	
METHOD OF PAYMENT:	
Express Mail Corporate Acct. No.	A276081

FROM: (PLEASE PRINT)	
MYERS SIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH NC 27627-1428	PHONE (919) 654 1400
9099/18 EAS/bey	

DELIVERY (POSTAL USE ONLY)		
Delivery Attempt	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Attempt	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Date	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
<input type="checkbox"/> WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.		
NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday		
Customer Signature		

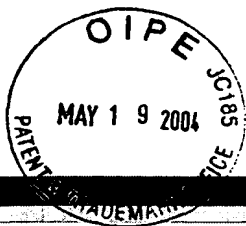
FEDERAL AGENCY ACCT. NO. OR POSTAL SERVICE ACCT. NO.	

TO: (PLEASE PRINT)	
Mailstop Patent Application Commissioner for Patents PO Box 1450 Alexandria, VA 22313-1450	PHONE ()

PRESS HARD.
You are making 3 copies.

FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com



[Home](#)

Track & Confirm

Shipment Details

You entered EV38 1447 602U S

Your item was delivered at 9:38 am on February 18, 2004 in ALEXANDRIA, VA 22313 to PATENT OFFICE. The item was signed for by M BOSTON.

Here is what happened earlier:

- ARRIVAL AT UNIT, February 18, 2004, 8:07 am, DULLES, VA 20102
- ENROUTE, February 17, 2004, 7:21 pm, RALEIGH, NC 27623
- ACCEPTANCE, February 17, 2004, 5:44 pm, RALEIGH, NC 27612

Notification Options

▶ [Track & Confirm by email](#)

[What is this?](#)

[Go >](#)

▶ [Request Proof of Delivery](#)

[What is this?](#)

[Go >](#)



POSTAL INSPECTORS
Preserving the Trust

[site map](#) [contact us](#) [government services](#)
Copyright © 1999-2002 USPS. All Rights Reserved. [Terms of Use](#) [Privacy Policy](#)

Track & Confirm

Enter label number:

[Go >](#)

[Track & Confirm FAQs](#)

[Go >](#)

Mailstop Patent Application

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

EAS/bey

Date: February 17, 2004

Doc. No. 9099-18

Serial No. 76a

Inventor: Robert D. Black et al.



Kindly acknowledge receipt of the accompanying items listed below by placing your receiving stamp hereon and return mailing:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Application Transmittal and: | <input checked="" type="checkbox"/> Check \$ 1724.00 |
| <input checked="" type="checkbox"/> Specification pages 71 | <input type="checkbox"/> IDS & PTO-1449 & refs. |
| <input checked="" type="checkbox"/> No. of Claims 104 | <input type="checkbox"/> Amendment & Amend. Transmittal |
| <input checked="" type="checkbox"/> Declaration & POA | <input type="checkbox"/> Preliminary Amendment |
| <input checked="" type="checkbox"/> Assignment and Fee | <input type="checkbox"/> Issue Fee |
| <input checked="" type="checkbox"/> Small Entity Statement | <input type="checkbox"/> Brief |
| <input checked="" type="checkbox"/> Internal Formal Drawings/ 17 sheets | <input type="checkbox"/> Appeal |
| <input type="checkbox"/> Associate Power of Attorney | <input type="checkbox"/> Submittal of Priority Doc. |
| <input checked="" type="checkbox"/> Exp. Mail 1st Class Mail | |
| <input checked="" type="checkbox"/> Other: Return Postcard | |

031356 U.S. PTO
10/779907



021804

Respectfully submitted,
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
Attorneys for Applicant

EV381447602US



EV 381447602 US

Mailing Label
Label 11-F June 2002



UNITED STATES POSTAL SERVICE®

Post Office To Addressee

ORIGIN (POSTAL USE ONLY)		
PO ZIP Code	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> Second	Flat Rate Envelope <input type="checkbox"/>
Date In Mo. Day Year	<input type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM	Postage \$
Time In <input type="checkbox"/> AM <input type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee Insurance Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials	Total Postage & Fees \$

CUSTOMER USE ONLY

METHOD OF PAYMENT:
Express Mail Corporate Acct. No.

K276081

FROM: (PLEASE PRINT)
MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627-7428

9099/18 EAS/bey

Federal Agency Acct. No. or
Postal Service Acct. No.

TO: (PLEASE PRINT)

Mailstop Patent Application
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

PRESS HARD:

You are making 3 copies:

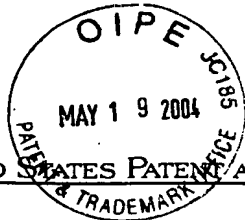
FOR PICKUP OR TRACKING CALL 1-800-222-1811 www.usps.com



6297 750

F:02 T:

EAS

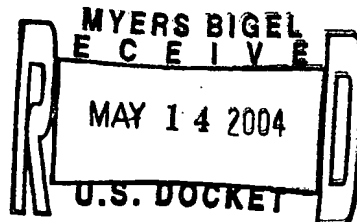


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/779,907	02/18/2004	1642	2454	9099-18	17	104	5

20792
 MYERS BIGEL SIBLEY & SAJOVEC
 PO BOX 37428
 RALEIGH, NC 27627



CONFIRMATION NO. 8994

FILING RECEIPT



OC000000012597925

Date Mailed: 05/12/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Robert D. Black, Chapel Hill, NC;
 Natasha Bolick, Creedmoor, NC;

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/448,349 02/19/2003
 and claims benefit of 60/471,706 05/19/2003

Foreign Applications

If Required, Foreign Filing License Granted: 05/11/2004

Projected Publication Date: To Be Determined - pending completion of Corrected Papers

Non-Publication Request: No

Early Publication Request: No

Title

In vivo fluorescence sensors, systems, and related methods operating in conjunction with fluorescent analytes

05-14-04 A08:58 IN

Preliminary Class

435

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).